



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0710; FRL-9941-04-Region 7]

Approval of Nebraska's Air Quality State Implementation Plan (SIP); Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard in Regards to Section 110(a)(2)(D)(i)(I) - Prongs 1 and 2

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O₃). CAA section 110 requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under

the CAA. Specifically, EPA is approving Nebraska's SIP as it relates to section 110 (a) (2) (D) (i) (I) prongs 1 and 2, for the 2008 O₃ NAAQS.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0710. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically at www.regulations.gov and at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. Please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. For additional information and general guidance, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection

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SUPPLEMENTARY INFORMATION: Throughout this document, the terms
"we," "us," or "our" refer to EPA. This section provides
additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

I. Background

On November 16, 2015 (80 FR 70721), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed approval of Nebraska's submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 O₃ NAAQS. Specifically, the NPR proposed approval of section 110 (a) (2) (D) (i) (I) prongs 1 and 2, for the 2008 O₃ NAAQS.

II. Summary of SIP Revision

On February 11, 2013, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 2008 O₃ NAAQS. On September 15, 2015 (80 FR 55266) EPA approved the following

infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (prong 3), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) which are necessary to implement, maintain, and enforce the 2008 O₃ NAAQS, as a revision to the Nebraska SIP, and disapproved section 110(a)(2)(D)(i)(II)- prong 4, as it relates to the protection of visibility. At that time, EPA did not take action on section 110(a)(2)(D)(i)(I)- prongs 1 and 2. Specific requirements of section 110(a)(2)(D)(i)(I)- prongs 1 and 2 of the CAA and the rationale for EPA's proposed action to approve these specific provisions of the SIP submission, not previously acted on, is explained in the NPR and will not be restated here. The public comment period for the notice of proposed rulemaking (NPR) closed on December 16, 2015. EPA received no comments on the NPR.

III. Final Action

EPA is approving Nebraska's February 11, 2013, submission addressing the requirements of the CAA sections 110(a)(1) and (2) as applicable to the 2008 O₃ NAAQS. Specifically, EPA approves section 110(a)(2)(D)(i)(I) - prongs 1 and 2, which are necessary to implement, maintain, and enforce the 2008 O₃ NAAQS, as a revision to the Nebraska SIP. As EPA noted in the NPR, this final action fulfills EPA's commitment to take final action as to Nebraska's SIP submission addressing 110(a)(2)(D)(i)(I), as

set forth by the court in *Sierra Club v. McCarthy*, 4:14-cv-05091-YGR (N.D. Cal. May 15, 2015).

IV. Statutory and Executive Order Review

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has

demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final

rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Ozone,
Reporting and recordkeeping requirements.

Dated: December 22, 2015.

Mark Hague,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CC - Nebraska

2. In §52.1420(e), the table is amended by adding entry (31) to read as follows:

§ 52.1420 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or Nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(31) Section 110(a)(2) Infrastructure Requirements for the 2008 O ₃ NAAQS	Statewide	2/11/13	[<u>Insert date of publication in the Federal Register</u>] and [<u>Insert Federal Register citation</u>].	[EPA-R07-OAR-2015-0710; 9941-04-Region 7] This action addresses the following CAA elements: 110(a)(2)(D)(i)(I)-Prongs 1 and 2

[FR Doc. 2015-33301 Filed: 1/8/2016 8:45 am; Publication Date: 1/11/2016]